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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

**In re:**

**NPC ACQUISITION, INC.,**

**Debtor.**

**Chapter 11**

**Case No. 10-10702 (DHS)**

**APPLICATION FOR AN ORDER PURSUANT TO 11 U.S.C. §§ 328(a) AND 1103  
AUTHORIZING AND APPROVING THE EMPLOYMENT AND RETENTION  
OF MARCUM LLP AS FINANCIAL ADVISOR TO THE OFFICIAL  
COMMITTEE OF UNSECURED CREDITORS**

The Official Committee of Unsecured Creditors (the "Committee") appointed in the bankruptcy case of the above-captioned debtor and debtor-in-possession (the "Debtor") submits this application (the "Application") for an Order pursuant to 11 U.S.C. §§ 328(a) and 1103 and Federal Rule of Bankruptcy Procedure 2014(a) authorizing and approving the employment and retention of Marcum LLP ("Marcum") as financial advisor to the Committee, effective as of February 2, 2010. In support of the Application, the Committee respectfully represents as follows:

### **BACKGROUND**

1. On January 12, 2010 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to 11 U.S.C. §§ 1107(a) and 1108, the Debtor continues to operate its business and manage its property as a debtor-in-possession.

2. No trustee or examiner has been appointed in the Debtor's bankruptcy case.

3. On January 20, 2010, the Office of the United States Trustee appointed the Committee pursuant to 11 U.S.C. § 1102.

4. The Committee has selected Marcum LLP to serve as its financial advisor in this case.

### **JURISDICTION AND VENUE**

5. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 328 and 1103 and Fed. R. Bankr. P. 2014(a).

### **RELIEF REQUESTED**

6. By this Application, the Committee seeks entry of an Order authorizing and approving the employment and retention of Marcum as its financial advisor to perform services relating to the Debtor's bankruptcy case, effective as of February 2, 2010.

7. Section 328(a) of the Bankruptcy Code empowers a committee appointed under 11 U.S.C. § 1102, with the Court's approval, to employ professional persons under 11 U.S.C. § 1103 on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, or on a contingent fee basis, to perform services for such committee.

8. Pursuant to 11 U.S.C. § 1103(b), an accountant employed to represent a committee may not, while employed by such committee, represent any other entity having an

adverse interest in connection with the case. Marcum has advised the Committee that, except as set forth in the Certification of Sam Rosenfarb submitted herewith (the "Rosenfarb Certification"), Marcum does not hold or represent any other entity having an adverse interest in connection with the Debtor's bankruptcy case and does not have any connections with the United States Trustee or any person employed by the Office of the United States Trustee.

9. Marcum is one of the largest independent public accounting and advisory services firms in the nation and has an outstanding reputation at the national and regional levels. Marcum offers the resources of more than 800 professionals, including more than 100 partners, in 12 offices throughout New York, New Jersey, Connecticut, Pennsylvania, Florida and Grand Cayman, with full service offices strategically located in major business markets.

10. Marcum offers an extensive range of professional services and a high degree of specialization to its clients, including, without limitation, services pertaining to traditional accounting, assurance and tax, including domestic and international tax planning and preparation. Marcum's professional services also include mergers and acquisition planning, forensic accounting and litigation support. Marcum has developed several niche practice areas including business valuation, bankruptcies and receiverships.

11. The Committee has reviewed the qualifications and experience of Marcum and its principals and has selected Marcum as its financial advisor because of Marcum's extensive experience working with financially troubled companies in complex financial restructurings both in and out of Chapter 11. Marcum's professionals have advised debtors, creditors, lenders and other stakeholders in numerous Chapter 11 proceedings and Marcum maintains an excellent reputation for its services rendered in connection therewith.

12. The Committee has determined that it would be in its best interest to retain a financial advisor to assist the Committee in this Chapter 11 case. The Committee desires to retain Marcum to provide such services as Marcum, counsel, and the Committee deem necessary and beneficial to the Committee and the unsecured creditor body. The services that the Committee may request include, but are not limited to, review all financial information prepared

by the Debtor or its consultants including, but not limited to, the Debtor's financial statements, schedules of assets and liabilities, and statement of financial affairs, attend meetings of the Committee or with the Debtor, creditors, their attorneys and consultants, or federal and state authorities, if required, review the Debtor's periodic operating and cash flow statements, provide expert testimony on the results of any findings; and provide the Committee with such other financial and consulting services with respect to the Debtor, and financial, business and economic issues, as may arise during the course of the case as requested by the Committee.

13. It is essential that the Committee employ a financial advisor to render the foregoing professional services in order to assist the Committee with its duties and in addressing the many issues that may arise in the context of this case. The Committee believes that Marcum is well qualified to serve them in this Chapter 11 case. The services to be rendered by Marcum will not duplicate the services to be rendered by any other professionals retained by the Committee in this case.

14. Subject to the Court's approval and pursuant to 11 U.S.C. §§ 330 and 331, the Federal Rules of Bankruptcy Procedure, and the rules and other procedures which this Court may fix, the Committee requests that Marcum be compensated on an hourly basis, plus reimbursement of the actual and necessary expenses that Marcum incurs in accordance with its ordinary and customary rates which are in effect on the date the services are rendered, as more particularly set forth in the Rosenfarb Certification.

15. Pursuant to an agreement between Marcum and the Committee, the aggregate fees, costs and expenses which Marcum is authorized to charge the Debtor's estate, together with all other fees, costs and expenses charged by any other counsel or accountant retained by the Committee, shall not exceed \$75,000. In addition, Marcum has agreed that its compensation for services rendered and reimbursement of expenses incurred in serving as financial advisor to the Committee in the Debtor's bankruptcy case will be subject to a cap of \$20,000.

**NOTICE**

16. The Committee has provided notice of this Application to (a) the Office of the United States Trustee for the District of New Jersey, (b) counsel for the Debtor, (c) counsel to the Debtor's prepetition secured lenders, and (d) all parties who have filed and served requests for notice pursuant to Federal Rule of Bankruptcy Procedure 2002. The Committee submits that no other or further notice is necessary or required.

**NO PREVIOUS APPLICATION**

17. No previous application for the relief sought herein has been made to this or any other court.

WHEREFORE, the Committee respectfully requests that this Court enter an Order, substantially in the form submitted herewith, authorizing the Committee to retain and employ Marcum LLP as financial advisor to the Committee, effective as of February 2, 2010, and grant such other and further relief as the Court deems just or proper.

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF NPC ACQUISITION, INC.

By: Sandhya A. Kukkillaya  
INTERNATIONAL PAPER CO.  
Sandhya Kukkillaya, Committee Chairperson

Dated: February 9, 2010